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ALSTON & BIRD LLP BANK OF AMERICA PLAZA 101 SOUTH TRYON STREET, SUITE 4000 CHARLOTTE, NC 28280-4000			LUKS, JEREMY AUSTIN	
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Please find below and/or attached an Office communication concerning this application or proceeding.



## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Söderquist (4,317,503) in view of L'Heureux (4,924,969) and McNett (6,123,171).

With respect to Claims 1 and 2, Söderquist teaches soundproofing panel comprising a first wall (Figure 6, #2) putting into contact with a fluid containing a source of noise and a second wall (7) for putting into contact with a fluid in which the noise to be attenuated, the panel further comprising at least one intermediate element (5) between said walls (2, 7) and the intermediate element (5) comprises over at least a portion of its outline at least one element (9) providing coupling between the intermediate element (5) and only the second wall (7); and a first layer of a material (10) between said first wall (2) and said intermediate element (7). Söderquist fails to teach wherein the element provides elastic coupling, and is situated only over the outline of the intermediate element or over least a portion said outline, and wherein the first layer of material is a compressible sound-absorbing material. L'Heureux teaches an element (Figure 1, #12) providing elastic coupling (Col 4, Lines 3-13), and is situated only over a portion of the outline of an intermediate element (10). It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the apparatus of

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Söderquist with the apparatus of L'Heureux to improve performance and sound absorption/filtering of the structure. L'Heureux fails to teach wherein the first layer of material is a compressible sound-absorbing material. McNett teaches a first layer of compressible sound-absorbing material (Figure 1, #16) (Col. 2, Lines 49-52). It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the apparatus Söderquist as modified of with the apparatus of McNett to further dampen sound in the panel.

With respect to Claim 3, Söderquist teaches the intermediate element is a rigid intermediate plate (5) (Col. 1, Lines 53-56, Col. 4, Lines 5-6). Söderquist fails to teach two layers of sound-absorbing material surrounding the intermediate plate, the assembly constituted by the intermediate plate and the two layers of sound-absorbing material being sandwiched between said two walls. L'Heureux teaches two layers of sound-absorbing (Figure 1, #7, 8) material surrounding an intermediate area (3). When used in combination with Söderquist, the assembly is constituted by the intermediate plate (Söderquist, Figure 6, #5) and the two layers of sound-absorbing material (L'Heureux, Figure 1, #7, 8) being sandwiched between the two walls (Söderquist, Figure 6, #2, 7). ). It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the apparatus Söderquist of with the apparatus of L'Heureux to improve performance and sound absorption/filtering of the structure.

With respect to Claims 4-6, Söderquist teaches flexible elements are a plurality of suspension studs (Figure 5, 9) distributed along the periphery of the intermediate sheet (5). Söderquist fails to teach the flexible elements are made of a flexible material,

elastomer material, and where a flexible element is a strip of flexible, elastomer material. L'Heureux teaches a flexible element made of a flexible material, elastomer material, and where a flexible element is a strip (Figure 1, #12) of flexible material, elastomer material (Col. 4, Lines 3-26). It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the apparatus Söderquist of with the apparatus of L'Heureux to improve performance and sound absorption/filtering of the structure.

With respect to Claims 7-9, Söderquist teaches a rigid frame with an inner opening secured to a second wall and an intermediate element attached to a support element. Söderquist fails to teach wherein at least one flexible element is arranged between the frame and the intermediate element. L'Heureux teaches a flexible element (Figure 1, #12). It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the apparatus Söderquist of with the apparatus of L'Heureux to improve performance and sound absorption/filtering of the structure. Further, it would have been obvious to one of ordinary skill in the art at the time the invention was made to move the flexible element(s) from between the intermediate element and second wall to between the intermediate element and the rigid frame, since it has been held that rearranging parts of an invention involves only routine skill in the art. In re Japikse, 86 USPQ 70.

With respect to Claims 10 and 11, Söderquist teaches a rigid frame (Figure 6, #10) secured to the intermediate sheet (5), and wherein one said support element (9) is fixed between the frame (10) and the second wall (7). Söderquist fails to teach wherein

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at least one support element is a flexible wall made up of one or more segments.

L'Heureux teaches at least one support element is a flexible wall (Figure 1, #12) made up of one or more segments. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the apparatus Söderquist of with the apparatus of L'Heureux to improve performance and sound absorption/filtering of the structure.

With respect to Claims 12-14 and 16, Söderquist teaches the rigid frame (Figure 6, #10) is a cellular array of the honeycomb type presenting an array of cells, in particular hexagonal cells, sandwiched between two rigid plates (2, 7), and the rigid frame (10) defines a plurality of internal cavities or openings which are filled at least in part with soundproofing material (Col. 2, Lines 11-26), and the panel (Figure 6) includes an intermediate element (5) covering at least the outer outline of the rigid frame (10).

With respect to Claim 15, Söderquist is relied upon for the reasons and disclosures set forth above. Söderquist fails to teach wherein the panel comprises a plurality of intermediate elements, each covering one or more openings of the rigid frame. L'Heureux teaches a panel (Figure 1, #1) comprises a plurality of intermediate elements (9, 10), each covering one or more openings of the rigid frame taught by Söderquist (Figure 6, #10) when used in combination. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the apparatus Söderquist of with the apparatus of L'Heureux to improve performance and sound absorption/filtering of the structure.

***Response to Arguments***

2. Applicant's arguments filed 10/16/06 have been fully considered but they are not persuasive. With respect to Applicant's argument that Söderquist shows that wall 7 is the first wall and wall 2 is the second wall, it has been held that rearranging parts of an invention involves only routine skill in the art. In *re Japikse*, 86 USPQ 70. Further, Söderquist, L'Heureux and McNett show all of elements as claimed by Applicant, so even without rearranging the parts, Applicant is claiming an intended use as to which side of the panel to position toward a noise source, and a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. Regarding the at least one flexible element of Claim 1, again L'Heureux teaches the same structural element in strip 12, and a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. Further it is noted that the features upon which applicant relies (i.e., the language "mass-spring decoupling") are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

***Conclusion***

3. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeremy Luks whose telephone number is (571) 272-2707. The examiner can normally be reached on Monday-Thursday 8:30-6:00, and alternating Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lincoln Donovan can be reached on (571) 272-1988. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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